

BEFORE THE  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

VALASSIS NSA	)	Docket No. MC2012-14
	)	
VALASSIS NSA	)	Docket No. R2012-8

**VALPAK DIRECT MARKETING SYSTEMS, INC. AND  
VALPAK DEALERS' ASSOCIATION, INC.  
MOTION FOR ISSUANCE OF INFORMATION REQUEST  
(May 14, 2012)**

Valpak Direct Marketing Systems, Inc. and Valpak Dealers' Association, Inc.  
(hereinafter "Valpak"), pursuant to Rule 3001.21(a), hereby move the Commission to issue an Information Request seeking additional clarifying data and explanation from the Postal Service regarding the proposed Valassis Negotiated Service Agreement ("NSA"). Valpak believes that obtaining this information would clarify aspects of the Notice and ancillary documents submitted by the Postal Service on April 30, 2012, would improve transparency, would assist the Commission in determining whether or not the NSA proposed is lawful, and would ensure accountability should the NSA be approved.

**Proposed Questions for the Postal Service**

1. In the "Negotiated Service Agreement between the United States Postal Service and Valassis Direct Mail, Inc." (Attachment B), Part VI.A. provides for "Tracking, Reporting and Auditing." Subpart 4 thereof states that "Procedures for auditing compliance with the terms and conditions described in this agreement will be established by the Postal Service after consulting with Valassis."

- a. Please identify the office within the Postal Service which has or will be given responsibility for “Tracking, Reporting and Auditing” and will confirm ongoing compliance of Valassis with the Negotiated Service Agreement.
  - b. Will the ongoing costs incurred by the Postal Service in “Tracking, Reporting and Auditing” compliance by Valassis be recorded and reported separately to the Commission as costs attributable to the Valassis NSA?
2. Will the Valassis NSA cause the Postal Service to incur any new initial or one-time costs, such as new equipment (*e.g.*, computer hardware, mail processing equipment, etc.) or software programming? If so, please specify the nature and approximate amount of such costs, and whether they will be reported separately to the Commission as costs attributable to the Valassis NSA.
3. At various places in its Notice and attachments, the Postal Service identifies various factors that it believes to be key aspects of this contract, some of which appear to bear on its understanding of the requirement that the Valassis NSA be made “available on public and reasonable terms to similarly situated mailers.” 39 U.S.C. § 3622(c)(10). Does the Postal Service consider all of the following objectives, elements, principles, or terms of the Valassis NSA to be required in determining whether another mailer is deemed to be similarly situated?
  - a. “The **objective** of this Standard Mail market dominant agreement is to maintain the total contribution the Postal Service receives from Valassis Saturation Mail postage, and to provide an incentive for Valassis to find innovative ways to expand its use of Standard Mail.” Notice, p. 2 (emphasis added).

- b. “The **basic agreement** consists of four key components: mailer eligibility, mail eligibility, mailing and volume commitments, and rebates on Standard Mail Saturation Flats Mail.... The Postal Service regards each of the four main elements described above ... to be an essential component of this agreement....” *Id.*, pp. 4, 6 (emphasis added).
  - c. “Th[e] **design imperative** — to generate additional contribution — and the basic structure of the agreement with Valassis ... will guide the Postal Service in the negotiation of similar agreements....” *Id.*, p. 6 (emphasis added).
  - d. “[T]he Postal Service believes that the **defining characteristics** of Valassis are its size, its nationwide distribution network, and its significant volume of Saturation Mail. These characteristics enable Valassis to provide a new opportunity to durable and semi-durable good retail advertisers that is scalable across multiple media markets.” *Id.*, p. 7 (emphasis added).
  - e. “The **primary justification** for a Negotiated Service Agreement that will facilitate the new shared mail advertising offered by Valassis is the dynamic nature of how durable goods retailers are reaching the consumer.” Attachment E (Statement Supporting Justification), p. 5 (emphasis added).
  - f. If there are any aspects of the Valassis NSA that the Postal Service will require for an NSA with a similarly situated mailer not stated in subparts a through e, please identify those aspects.
- 4.
  - a. Will the mailpieces under the Valassis NSA be entered in envelopes or will they be wraps? If wraps, can FSS machines process those wraps?

- b. Does the Postal Service anticipate that any or all of the mailpieces entered at SCFs under this contract will be processed on FSS machines? If not, please explain the rationale for the Valassis NSA requiring that qualifying mailpieces be at least 1/4 inch thick.
- 5. The Postal Service states that “Valassis must initiate new shared saturation mail programs in markets where it has maintained an existing Standard Mail Saturation mailing program on at least a monthly basis during the two years preceding execution of this NSA.” Notice, p. 4. Further, “Valassis ... must maintain its preexisting shared mail program for the duration of this agreement.” *Id.* As to geographical areas where Valassis is already mailing on a weekly basis:
  - a. Please explain how the Postal Service will handle a new mailing under the agreement assuming it is also on a weekly basis, addressing the following issues. Is there any requirement that Valassis spread out these two shared saturation mailings so that they do not arrive on the same day? Will mailings under the agreement be taken to the street as a third bundle? How much excess capacity does the Postal Service have to take additional third bundles before manual collating of such third bundles or other costly delivery-related processing will be required?
  - b. Will this agreement increase Valassis’ volume of mail to be delivered on Saturday? If so, what effect would the elimination of Saturday delivery have on the NSA, both from the standpoint of Valassis’ ability to market the product, and the ability of the Postal Service to deliver the product?

6.
  - a. What is the rationale for the agreement to have a flat per-piece DDU and SCF price for all pieces in the broad weight ranges of (i) 6.5 - 9.0 ounces, and (ii) 9.0 - 11.0 ounces? *See* Notice, p. 5.
  - b. Does this negotiated pricing constitute a violation of the pricing principle established by the Commission that heavier-weight Standard Mail pays both a per-piece component and per-pound component?
7. In Attachment E (Statement of Supporting Justification), the Postal Service response to the requirement to “provide a description of the likely impact of the proposed modification on small business concerns” (p. 4) discusses only the affect on small businesses which deliver hard-copy advertising.
  - a. Does this limitation on the Postal Service required response indicate that the Postal Service believes that no other small business concerns would be implicated?
  - b. Will the Valassis NSA have a positive effect or a negative effect on small businesses that currently compete with those national retailers who would be able to advertise at discounted rates under this NSA?
  - c. To the extent that any newspapers are considered small businesses, what could be the effect on them, as relates to their financial survival?
8. In its Notice the Postal Service states that:

**Private delivery alternatives** to the mail are becoming technologically more sophisticated, offering prices substantially below the current prices of mail distribution, and aggressively marketing their services to saturation mailers, newspapers, and retail advertisers. Saturation mailers are increasingly looking to

private delivery options, and newspapers are extending their reach through Total Market Coverage and Sunday Select (distribution to non-subscribers) delivered via non-postal carriers. [Notice, p. 3 (emphasis added).]

- a. Please explain the extent to which this reference to “private delivery alternatives” includes electronic delivery.
- b. Please explain the ways in which the Postal Service believes that “private delivery alternatives” for hard-copy materials, such as retail advertising circulars, are becoming technologically more sophisticated.
- c. Please provide any surveys, studies, or other information that the Postal Service has in its possession supporting its representations concerning:
  - (i) the extent and growth of private sector delivery competition for hard-copy advertising circulars, and
  - (ii) the extent to which prices offered by such private sector competitors for hard-copy delivery are “substantially below the current prices of mail distribution.”
- d. Please describe the extent to which existing Postal Service volume of Saturation Mail is challenged or threatened by those developments discussed or alluded to in the above-quoted statement in your Notice, as well as in your responses to preceding parts a, b, and c.
- e. If the existing Saturation mailstream contains little (or no) retail advertising for durable and semi-durable goods, please discuss how the new program under this NSA, which is aimed at potential customers and products that do not now use

Saturation Mail, will help meet “challenges to the Postal Service” (in maintaining its volumes) posed by employing “prices substantially below the current prices of mail distribution.” *Id.* In particular, if the very high coverage on Saturation Mail has caused the price of that product to become non-competitive in some existing markets, please explain how an NSA focused on customers and products that do not currently use Saturation Mail will address a problem caused by overpricing of Saturation Mail in existing markets.

9. The Valassis NSA states:

The new mail programs covered by this agreement are limited to the carriage of advertising of national retail advertisers, defined as retail providers primarily offering durable and semi-durable goods and having a physical retail outlet presence in 30 or more states. [Paragraph IV.D.]

- a. What is the rationale for limiting qualifying mailers in this way?
  - b. Would any retail provider which advertises under this contract need to apply to be certified by the Postal Service to ensure that sales revenues from durable and semi-durable goods sold by the advertiser are their primary product lines, and they have not previously engaged in impermissible solo mailings?
  - c. Will the Postal Service and Valassis develop a list of qualifying retailers? If so, will the list be made public?
10. Under the NSA, would each and every individual piece in the qualifying mailing be required to come from a qualifying retailer?

- a. If so, would the presence of one piece of mail from a non-qualifying retailer render the entire mailing ineligible for the discount? If not, what share of mail must come from qualifying retailers?
  - b. As to mailers who had previously sent solo mail, the NSA provides for a specific “penalty in the form of a surcharge equal to the published solo mail price for such individual circular at the time of mailing.” Valassis NSA, section IV.F. Since there is no similar penalty for mailpieces containing advertisements for retailers which do not meet the test of national retailers of durable and semi-durable goods and services, would inclusion of any one such advertisement disqualify the entire mailing from the rebate program?
- 11. If the Postal Service is correct that it currently is losing, or may lose, some volume of full-paid Saturation Mail flats to private delivery alternatives (as discussed on page 3 of the Notice), how many pieces of mail under this NSA will be needed, on average, to offset the contribution that is lost when one flat-shaped piece of full-paid Saturation Mail diverts to private delivery?
- 12. To the extent that the Postal Service is aware, please explain:
  - a. whether private delivery alternatives, marketing their services to Saturation mailers, are focused exclusively on those who mail Saturation flats, or whether they also are marketing their services to mailers of Saturation letters.
  - b. whether these private delivery alternatives are only marketing to national durable and semi-durable goods retail chains.



13. The Postal Service states that it “understands from Valassis that national durable and semi-durable goods advertising retailers indicate that these new shared saturation mail programs would provide them an **affordable service alternative**, which they **do not now have**, and would therefore be beneficial to their marketing programs.”

Attachment E (Statement of Supporting Justification), p. 4 (emphasis added). How does the Postal Service intend to maintain or even increase the volume from these national durable and semidurable goods retailers after the cancellation or expiration of the Valassis NSA discounts, when Saturation mail ceases being “an affordable service alternative”?

14. In Attachment F (calculations underlying the financial analysis of the agreement), tab “Value Calc,” Column J shows total contribution and net value for the three-year agreement at high and low estimates, but does not show the three-year total for the estimated rebates.

- a. Although the numbers can be calculated from what was provided, was there any reason why the total rebates (low estimate and high estimate) over the three-year period of the NSA were not provided on the spreadsheet?
- b. Please confirm that, according to Postal Service estimates, 63-64 percent of the total estimated contribution of all mail qualifying for the Valyssid NSA will be rebated in cash to Valassis.

Respectfully submitted,

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